

---

# Haldimand County Committee of Adjustment



## Consent

**File Number:** PLB-2024-239

**Property Roll Number:** 2810-023-001-08400-0000

**Applicant:** Harold Kelly

**Agent:** Kim Hessels

**Property Location:** 398 Diltz Road, Legally Described as MOULTON CON 1 CANBOROUGH PT LOT 6 RP 18R6738 PARTS 1 AND 2

**For consideration on: December 17, 2024**

---

## Summary

The applicant proposes to sever a parcel of land containing a surplus farm dwelling. Planning staff recommends refusal of this application as it is not consistent with the Provincial Planning Statement, 2024, and does not conform to the intent of the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020.

## Recommendation

THAT application PLB-2024-239 be refused as the application is not consistent with the Provincial Planning Statement, 2024 and does not conform to the intent of the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020.

**Prepared by: Chris Tang, MCIP, RPP, Planner, Planning and Development**

**Reviewed by: Krystina Wheatley, Acting Supervisor, Planning and Development**

## Details of the Submission:

### Proposal:

The applicant proposes to sever a parcel of land containing a surplus farm dwelling. The severed lands are proposed to have a frontage of 41 metres (~135 feet) and an area of 0.38 hectares (0.94 acres). The retained lands are proposed to have 0 metres (0 feet) of frontage and an area of approximately 5.08 hectares (12.55 acres).

### **Site Features and Land Use:**

The subject lands are located in the geographic township of Moulton, in the prime agricultural area of the County. The subject lands front onto the west side of Diltz Road. The subject lands have a frontage of 41 metres (~135 feet) and an area of 5.46 hectares (13.50 acres).

The subject lands consist of the severed lands and retained lands. The severed lands are proposed to have a frontage of 41 metres (~135 feet) and an area of 0.38 hectares (0.94 acres). The severed lands contain a single detached dwelling on private services and a residential accessory building. The severed lands are located between two existing rural residential lots. The retained lands are proposed to have 0 metres (0 feet) of frontage and an area of approximately 5.08 hectares (12.55 acres). The retained lands are vacant and are in active agricultural (crop) production. The surrounding land uses are generally rural residential and agriculture in nature.

### **Existing Intensive Livestock Operations:**

Not applicable.

## **Agency & Public Comments**

### **Haldimand County Building & Municipal Enforcement Services:**

We are concerned about landlocking the retained lands. Confirmation is required that the retained lands will be merged with the abutting lot municipally addressed as 404 Diltz Road.

### **Haldimand County Planning & Development Services – Development Technologist:**

The applicant needs to provide proof of entrance for retained parcel.

**Planning Comment:** Given the proposal to landlock the retained lands, an entrance permit cannot be issued. Therefore, an entrance permit has not been included in the condition sheet.

### **Haldimand County Emergency Services:**

No comments received.

### **Grand River Conservation Authority:**

No comments received.

## **Hydro One:**

Hydro One has no concerns regarding the severance. There is a primary / secondary pole line on private property (between the house and Diltz Road) that runs parallel to Diltz Road through the subject lands. Any existing Registered / Unregistered Easements for this line will remain.

## **Facilities, Parks, Cemeteries, and Forestry Operations:**

398 Diltz Road contains Significant Woodlands identified in the County's Official Plan. An Environmental Impact Study (EIS) is required to demonstrate that the proposed development will have no negative impacts on the natural features or their ecological functions.

The applicant also needs to show access to the proposed agricultural parcel after severance as it will be landlocked.

## **Municipal Property Assessment Corporation:**

No comments received.

## **Mississaugas of the Credit:**

No comments received.

## **Six Nations:**

No comments received.

## **Public:**

No comments received.

## **Planning Analysis**

### **Provincial Planning Statement, 2024 (PPS)**

The subject lands are located in the prime agricultural area of the County. The PPS discourages lot creation in the prime agricultural area and permits it in very limited circumstances, which includes permitting one new residential lot per farm consolidation for a residence surplus to an agricultural operation provided that the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water service and the planning authority ensures that new residential dwellings and additional residential units are prohibited on any remnant parcel of farmland created by the severance. The applicant has failed to demonstrate farm consolidation or that the residence is surplus to an agricultural operation. The applicant submitted Form 1 – Residential Lot in a Rural/Agricultural Area – Information Form as part of his application, which lists the applicant's farms and dwellings. According to the Form, the applicant only owns one other lot containing a dwelling (415 Diltz Road); This is a rural residential lot measuring 0.2 hectares (0.5 acres) in size and is not a farm. Owning the subject lands and this rural residential lot is not considered farm

consolidation and the dwelling on the subject lands is not considered surplus to a farming operation as a result of farm consolidation. The applicant must own another farm containing a dwelling to qualify for a surplus farm dwelling severance.

It is Planning staff's opinion that the application is not consistent with the PPS. Therefore, Planning staff recommends that the application be refused.

### **Haldimand County Official Plan (OP)**

The subject lands are designated "Agriculture" in the Haldimand County Official Plan (OP).

The OP states that lot creation in the "Agriculture" designation is generally discouraged and may be only permitted in limited circumstances, which includes a severance for a habitable farm dwelling with a minimum age of ten years, calculated from the date of occupancy of the dwelling **made surplus through farm consolidation where it is part of a farm holding containing two or more habitable dwellings and where each farm is located within the County**. No new residential shall be permitted on the retained lands.

**Planning staff comment:** The applicant has failed to demonstrate that the dwelling on the subject lands is made surplus through farm consolidation where it is part of a farm holding containing two or more dwellings and where each farm is located within the County.

The creation of a surplus farm dwelling lot will need to meet the following criteria:

- a) The severance shall generally be 0.4 hectares (1 acre) to 0.6 hectares (1.5 acres) in size and shall minimize the amount of agricultural land or productive forest land taken out of production;

**Planning staff comment:** The severed lands are 0.38 hectares (0.94 acres) in size.

- b) No severance shall be granted unless the proposed lot can be serviced by an on-site sanitary sewage system designed and installed as per the Ontario Building Code;

**Planning staff comment:** The severed lands will be serviced by an existing cistern and septic system. A septic evaluation has been submitted as part of the application. Building staff did not have concerns regarding the septic system.

- c) No severance shall be granted unless it is shown that it will not adversely affect the operation or viability of the farm operation on the remaining lands;

**Planning staff comment:** The severance will remove all frontage and access for the retained (farm) lands. The retained lands will be landlocked, which will have severe impact on the operation and the viability of the farm; There will be no legal frontage or access for the farmlands.

Additionally, the retained lands are 5.08 hectares (12.55 acres) in size, and preferred farm size in the OP is 40 hectares (100 acres). In addition to being landlocked, the retained lands are severely undersized.

The applicant has failed to demonstrate that the severance will not adversely affect the operation or viability from a frontage and access perspective and lot size perspective.

- d) Severances that do not meeting Minimum Separation Distance formulae, as amended, shall not be permitted;

**Planning Comment:** The subject lands do not contain a livestock operation, therefore the MDS formulae does not apply.

- e) Severances shall not be permitted within 300 metres from licensed pits and 500 metres from licensed quarries and must be well removed from waste disposal sites and other potential land use conflicts;

**Planning Comment:** The severed lands are not located within 300 metres of licensed pits or 500 metres of licensed quarries.

- f) The lot shall be located with safe and direct access to a permanently maintained public road;

**Planning Comment:** The severed lands will have frontage on an existing public road, known municipally as Diltz Road. However, the severance will remove road frontage and access for the retained lands. The retained lands will not have safe and direct access to a permanently maintained public road.

- g) Potential impacts on natural environment areas and/or cultural resources shall be assessed and addressed, where necessary;

**Planning Comment:** The proposed application is not anticipated to have an adverse or negative impact on the surrounding natural or cultural resources.

It is Planning staff's opinion that the application does not conform to the OP. More specifically, the applicant has failed to demonstrated that the dwelling on the subject lands is made surplus through farm consolidated where it is part of a farm holding containing two or more dwellings and where each farm is located within the County and the severance will landlock the retained (farm) lands, cutting off legal frontage and access to the retained (farm) lands. Therefore, Planning staff recommends that the application be refused.

### **Haldimand County Zoning By-law HC 1-2020**

The subject lands are zoned "Agriculture (A)" in the Haldimand County Zoning By-law HC 1-2020. The "A" Zone permits agriculture use, a single family dwelling, and residential accessory buildings. The Zoning By-law automatically rezones the retained farmlands by removing a single family dwelling when the Committee of Adjustment approves surplus farm dwelling lots that are less than 0.6 hectares (1.48 acres) in size. Given the severed lands are 0.38 hectares (0.94 acres) in size, the

retained lands would qualify for automatic rezoning process without the need for a Zoning By-law Amendment application.

While the severed lands satisfy the zoning provisions for lot frontage, lot area, and setbacks, the retained farmlands do not satisfy the lot frontage provision (required = 30 metres (~99 feet), proposed = 0 metres (0 feet)). The severance will landlock the retained lands and remove legal frontage and access. This does not meet the intent of the lot frontage provision.

It is Planning staff's opinion that the application does not conform to the Zoning By-law. Therefore, Planning staff recommends that the application be refused.

## **Other**

There are two significant concerns with the subject application:

### Road Access and Frontage

The applicant applied for a consent application to sever a surplus farm dwelling. The applicant did not also apply for a consent to boundary adjust the retained (farm) lands to the abutting lot (404 Diltz Road) through the same consent application, which is an option, or illustrate such boundary adjustment in the Owner's Sketches. If the Owner desires to merge the retained lands with the abutting lot (404 Diltz Road) to address the lack of road frontage and access, the application should be amended to both a surplus farm dwelling severance and boundary adjustment.

### Farm consolidation and surplus farm dwelling

The applicant has failed to demonstrate that the dwelling on the subject lands is made surplus through farm consolidation where it is part of a farm holding containing two or more dwellings and where each farm is located within the County. The applicant must own another farm containing a dwelling to qualify for a surplus farm dwelling severance. Unless the Owner purchases an additional farm containing a dwelling, the application will not meet the PPS and OP policies. Therefore, the application should be refused.

However, should the Committee desire to approve the application, Planning staff have prepared a condition sheet. This includes a condition that requires the retained farmlands be merged with the abutting lot (404 Diltz Road).

## **Notice Sign and Applicant Discussion**

A public notice sign was posted in accordance with the Planning Act, R.S.O. 1990, c. P.13 on 11/27/2024

The applicant has been satisfied the public consultation requirements as per the Provincial legislation.

A copy of the staff report has been provided to the applicant.

**Attachments:**

1. Condition Sheet
2. Location Map
3. Owners Sketch 1
4. Owners Sketch 2